

**PROPERTY ASSESSMENT APPEAL BOARD**  
**FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER**

PAAB Docket No. 2019-077-10102C

Parcel No. 312/00678-015-001

**Esday Oinesmay Partners LLC,**

Appellant,

vs.

**Polk County Board of Review,**

Appellee.

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**Introduction**

The appeal came on for written consideration before the Property Assessment Appeal Board (PAAB) on June 5, 2020. Tax Consultant Brent Crumpton of Vantage One Tax represented Esday Oinesmay Partners, LLC (EOP). Assistant Polk County Attorney Jason Wittgraf represented the Board of Review.

EOP owns a commercial property located at 4301 121st Street, Urbandale, Iowa. Its January 1, 2019, assessment was set at \$15,200,000, allocated as \$2,050,000 in land value and \$13,150,000 in improvement value. (Ex. A).

EOP petitioned the Board of Review contending the assessment was not equitable as compared with assessments of other like property in the taxing district, and that the property was assessed for more than the value authorized by law. Iowa Code § 441.37(1)(a)(1 & 2) (2019). The Board of Review denied the petition. (Ex. B).

EOP then appealed to PAAB re-asserting its claims and also checking the box reserved for an error claim. Based on the letter attached to the appeal, it appears the error claim is a reiteration of EOP's assertion the property is over assessed. Accordingly, we will only consider the claims of equity and over assessment. § 441.37(1)(a)(1 & 2).

## **General Principles of Assessment Law**

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. PAAB is an agency and the provisions of the Administrative Procedure Act apply. § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). PAAB may consider any grounds under Iowa Code section 441.37(1)(a) properly raised by the appellant following the provisions of section 441.37A(1)(b) and Iowa Admin. Code R. 701-126.2(2-4). New or additional evidence may be introduced. *Id.* PAAB considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct, but the taxpayer has the burden of proof. §§ 441.21(3); 441.37A(3)(a). The burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Compiano v. Bd. of Review of Polk Cnty.*, 771 N.W.2d 392, 396 (Iowa 2009) (citation omitted).

## **Findings of Fact**

The subject property is an office and warehouse occupied by Interstate Battery. The 24.314-acre site is improved with a 367,386 square-foot, concrete tilt-up building constructed in 1995 and remodeled in 2012. The warehouse portion of the improvements are 322,350 square feet and a two-story office is 45,036 square feet. The site is also improved with 190,000 square feet of concrete paving, yard lighting, and chain link fencing. The improvements are listed as grade 4+00 (average quality) in normal condition. (Ex. A).

On behalf of EOP, Crumpton developed the cost and income approaches to value, which he asserts show the subject property is over assessed. (Exs. 1-3). The record does not include any evidence that Crumpton considered the sales comparison approach. The Board of Review was critical of EOP for failing to provide sales of comparable properties. (Ex. F).

Crumpton's cost analysis relied on data from MARSHALL AND SWIFT, a national valuation cost manual. (Ex. 2). Crumpton arrived at a "cost new" for the improvements

of \$21,310,027, to which he applied 41.6% physical and functional obsolescence resulting in a depreciated value for the improvements of \$12,439,114. (Ex. 2, p. 1). He did not explain how he arrived at his depreciation rate. Crumpton then added in the assessed land value of \$2,050,000 and \$150,000 in site improvements to arrive at a conclusion of value by the cost approach of \$14,639,114. (Ex. 2, p. 2).

In his income approach, Crumpton relied on a \$4.00 triple-net market rent, and \$0.61 per square foot for expenses. He considered a 7% vacancy rate. (Exs. 1 & 3). Crumpton did not provide any support for how he arrived at the market rent or vacancy rate. Based on this analysis, Crumpton calculated an effective gross income of \$1,366,676. (Ex. 3). After deducting expenses that were determined to be \$0.61 per square foot, he concluded a net operating income of \$1,141,983. Lastly, he applied a “loaded capitalization rate” of 8.00% to arrive at a conclusion of value by the income approach of \$14,274,788. (Ex. 3). Similar to the other factors he relied on for this analysis, Crumpton did not submit any evidence or support of how he arrived at his capitalization rate.

Reconciling his cost and income approaches to value, Crumpton asserts the correct fair market value of the subject property is \$14,400,000. (Ex. 1).

Crumpton also submitted five properties located in Urbandale that he believes demonstrate the subject’s assessment is inequitable. (Ex. 4). The following table provides a summary of the properties.

Comparable	Building Size (SF)	2019 Assessed Value	AV/SF	Adjusted AV/SF
Subject	367,386	\$15,200,000	\$41.37	
1 - 11201 Meredith Dr	215,600	\$8,460,000	\$39.24	\$35.32
2 - 4401 121st St	225,000	\$9,630,000	\$42.80	\$37.45
3 - 4360 112th St	203,712	\$8,360,000	\$41.04	\$37.76
4 - 3900 106th St	572,809	\$16,500,000	\$28.81	\$38.46

5 - 4434 112th St	200,000	\$8,430,000	\$42.15	\$39.83
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The comparable properties were built between 1968 and 2000. Crumpton did not provide the site size of the comparables, or identify if any have finished office space like the subject. There is no evidence that any of the properties have recently sold.

Crumpton adjusted the assessed value of the comparable properties by 0.5% per year for differences in year built resulting in age adjustments ranging from -2.5% to 13.5%. (Exs. 1 & 4). It is unclear whether Crumpton gave any consideration to the subject property's 2012 remodel, which would have reduced its effective age. He also adjusted Comparables 1, 2, 3, and 5 downward 10% to reflect the smaller size of each property compared to the subject. Comparable 4 was adjusted upward 20% because it is larger than the subject property. PAAB notes it is not recognized appraisal methodology to adjust the assessed value of comparable properties to support either an over assessment or equity claim.

After adjustments, the range of assessed value per square foot is between \$35.32 to \$39.83, with mean and median of \$37.76. Based on this analysis, Crumpton asserts an equitable assessment of the subject property is \$13,870,755. (Exs. 1 & 4).

The Board of Review submitted five sales of warehouse properties, which are summarized in the following table. (Ex. E).

Comparable	Sale Date	Sale Price	Site Size (Acres)	Gross Building Area (SF)	Finished Area (SF)	Adjusted Sale Price/SF
Subject			24.31	367,386	45,036	
1 - 1000 SE 19th St	Jun-18	\$17,800,000	19.32	245,520	7696	\$53.09
2 - 3900 106th St	Nov-17	\$16,700,000	42.13	572,809	16,464	\$39.90
3 - 810 SE Corporate Woods Dr	Jun-17	\$14,700,000	19.12	206,000	2676	\$58.78
4 - 3600 Army Post Rd	May-17	\$16,200,000	27.97	407,938	119,172	\$30.54
5 - 1550 E Washington Ave	Jan-16	\$8,850,000	19.99	274,160	25,334	\$41.74

Sales 1 and 2 are located in the western suburbs like the subject property. Sale 3 is located in Ankeny; Sale 4 is in south Des Moines; and Sale 5 is on the northeast side of Des Moines. Crumpton was critical of the Board of Review, asserting it cannot credibly rely on sales outside of the subject's immediate taxing jurisdiction to support the assessed value. (Ex. 1). The sales were built between 1968 to 2017. All have the same 4+00 grade and normal condition rating as the subject property.

The Board of Review adjusted the sales for time (date of sale), age, finished space, and amenities such as elevators, sprinkler systems, and wall height. It then appears to rely on the median adjusted sale price per square foot of \$41.74 to conclude a value by the sales comparison approach of \$15,334,691, which is slightly higher than the assessed value of \$15,200,000; or \$41.37 per square foot.

The Board of Review also submitted an executive summary of its sales ratio study for improved commercial property in Polk County. (Ex. D). This analysis is typically conducted by Assessor Offices in Iowa to determine whether a class of property may require assessment adjustments to be in line with state mandates. The summary shows that 133 commercial property sales in 2018 showed a median assessment/sales ratio of 92.7% at the time of sale. To reach a targeted median sales ratio of 99%, the Assessor's Office raised commercial property assessments by 6.8% in 2019.

### **Analysis & Conclusions of Law**

EOP contends the subject property is inequitably assessed and over assessed, as provided under Iowa Code section 441.37(1)(a)(1 & 2). EOP bears the burden of proof. § 441.21(3).

To prove inequity, a taxpayer may show an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). EOP failed to demonstrate the Assessor applied an assessing method in a non-uniform manner.

Alternatively, to prove inequity, a taxpayer may show the property is assessed higher proportionately than other like properties using criteria set forth in *Maxwell v. Shivers*, 133 N.W.2d 709, 711 (Iowa 1965). The *Maxwell* test provides that inequity exists when the subject property is assessed at a higher proportion of its actual value than like properties. *Id.* Typically this is demonstrated by a comparison of the actual values as shown by 2018 sales with the 2019 assessed values of the subject and comparables. A comparison of assessed values is insufficient to prevail on an inequity claim under *Maxwell*.

EOP submitted five properties located in Urbandale that it believes demonstrate its property's assessment is not equitable. On behalf of EOP, Crumpton adjusted the assessed values of these comparable properties to arrive at what he believes is an equitable assessed value of \$37.76 per square foot; or \$14,87,755. However, it is not proper methodology to adjust the assessed value of a property to support a claim of inequity. None of these properties have recently sold and EOP provided no other evidence demonstrating their actual values. Therefore an equity analysis as contemplated by *Maxwell* cannot be performed. Because EOP has neither demonstrated the Assessor is applying an assessment method non-uniformly nor provided sufficient evidence to complete the *Maxwell* analysis, its equity claim must fail.

In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2), the taxpayer must show: 1) the assessment is excessive and 2) the subject property's correct value. *Soifer v. Floyd Cnty. Bd. of Review*, 759 N.W.2d 775, 780 (Iowa 2009) (citation omitted). Sales prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. § 441.21(1)(b). Sale prices of property in abnormal transactions not reflecting market value shall not be taken into account or shall be adjusted to account for market distortion. *Id.*

EOP submitted a cost and income analysis, but did not submit any evidence it considered a sales comparison analysis, which is preferred by Iowa law, before turning to these other factors. Before the other approaches to value can be considered, there

must be a showing that the subject's value cannot be readily established by the sales approach. § 441.21(2).

The record includes five 2017 and 2018 sales of warehouse properties within Polk County, that offer similar overall quality and condition to the subject property, and were adjusted for differences to arrive at an opinion of the subject property's fair market value as of January 1, 2019. Although EOP challenges these sales on the basis they are outside of Urbandale, sales for an over assessment claim need not to be located in the subject's same taxing jurisdiction. *Carlson Co. v. Bd. of Review of City of Clinton*, 572 N.W.2d 146, 150 (Iowa 1997).<sup>1</sup> At a minimum, this evidence indicates there may be sales available which should be considered and we find EOP has not persuaded us it is necessary to depart from the statutorily preferred sales comparison approach.

Additionally, even if EOP's over assessment claim did not fail for lack of its consideration of the sales comparison approach, we find flaws with its cost and income analysis. In the cost analysis, Crumpton applied a significant amount of physical and functional depreciation with no explanation or support. The subject property was built in 1995 and remodeled in 2012 and is listed in normal condition, as such we question this level of depreciation without further evidence.

In the income analysis, Crumpton relied on a \$4.00 per square foot triple-net rent, 7% vacancy rate, and an 8% capitalization rate. He submitted no support for how he arrived at any of these conclusions and for these reasons we question the reliability of his value estimate.

Viewing the record as a whole, we find EOP has failed to support its claims.

## **Order**

PAAB HEREBY AFFIRMS the Polk County Board of Review's action.


<sup>1</sup> To the extent EOP would claim these properties cannot be considered on the issue of inequity, the Iowa Supreme Court has held that comparables for an inequity claim must be located in the same assessing jurisdiction as the subject. *Maytag Co. v. Partridge*, 210 N.W.2d 584, 594-95 (Iowa 1973). The Board of Review's comparables are all located in Polk County, like the subject, and can be considered relative to an inequity claim. Ultimately, however, we do not believe the Board of Review offered these comparables to demonstrate equity. It appears they are meant to show the subject is assessed below its market value.


This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A.

Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB administrative rules. Such application will stay the period for filing a judicial review action.

Any judicial action challenging this Order shall be filed in the district court where the property is located within 30 days of the date of this Order and comply with the requirements of Iowa Code section 441.37B and Chapter 17A (2019).

  
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